

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

AMANDA VO, individually and on behalf  
of a class,

*Plaintiff,*

v.

Case No. 19-CV-7187

VSP RETAIL DEVELOPMENT  
HOLDING, INC., a Delaware corporation,

*Defendant.*

**NOTICE OF REMOVAL**

Defendant VSP Retail Development Holding, Inc. (“VSP”) hereby provides notice that it has removed the above-captioned case to this Court from the Circuit Court of Cook County, Illinois (Chancery Division). Removal is based on 28 U.S.C. § 1441 *et seq.*, and on 28 U.S.C. § 1332. The information necessary to confirm the proper removal of this action is as follows:

**PROCESS, PLEADINGS, AND ORDERS**

1. On September 27, 2019, Plaintiff Amanda Vo (“Plaintiff”) filed an action on behalf of herself and all other similarly-situated individuals in the Circuit Court of Cook County, Illinois (Chancery Division). The action filed by Plaintiff was styled *Vo. v. VSP Retail Development Holding, Inc.*, No. 2019-CH-11261 (Cook. Cnty. Cir. Ct. filed September 27, 2019) (the “State Court Action”). Defendant VSP is currently the only defendant in the State Court Action, and was first served on October 4, 2019.

2. In the complaint filed to commence the State Court Action, Plaintiff asserts a cause of action for violation of the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1 *et seq.*

3. Pursuant to 28 U.S.C. § 1446(a), VSP is attaching as an exhibit a true and correct copy of Plaintiff's complaint in the State Court Action, along with all other process, pleadings, and orders with which VSP has been served in the State Court Action. *See* Pl.'s Class Action Complaint, No. 2019-CH-11261 (filed Sept. 27, 2019) (attached as Exhibit A).

### **REMOVAL STANDARD**

4. "[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

### **VENUE**

5. The State Court Action was filed in the Circuit Court of Cook County, Illinois (Chancery Division). Venue is therefore proper in this Court's Eastern Division pursuant to 28 U.S.C. §§ 1391, 1441(a), and 1446(a).

### **DIVERSITY JURISDICTION**

6. This Court has original jurisdiction over this class action case, and the State Court Action may be removed, because, as shown below, it is a civil action in which: (a) the total amount in controversy is in excess of the jurisdictional minimum; and (b) at least one member of the plaintiff class is a citizen of a different state than VSP. *See* 28 U.S.C. §§ 1332(d)(2), 1441(b).

### **AMOUNT IN CONTROVERSY**

7. The amount in controversy in this case exceeds \$5,000,000.00. Plaintiff's complaint alleges there are "at least thousands of members of the Class," *see* Ex. A (Compl. ¶ 30), and further requests statutory damages of \$5,000.00 for "each willful and/or reckless violation of BIPA" on behalf of each class member. *See* Ex. A (Compl. ¶ 45-46, 47(d)). Accordingly, the amount in controversy requirement under 28 U.S.C. § 1332(d)(2) is satisfied.

### **DIVERSITY OF CITIZENSHIP**

8. According to the allegations appearing in the complaint, Plaintiff is a citizen of the State of Illinois. *See* Ex. A (Compl. ¶ 12).

9. The complaint acknowledges that VSP is a Delaware corporation. *See* Ex. A (Compl. ¶ 11). Although the complaint is silent regarding VSP's principal place of business (which is the State of California), the complaint does not allege or assert that VSP's principal place of business is the State of Illinois. Accordingly, diversity is established in this class action for purposes of this Court's original jurisdiction, as at least one member of the plaintiff class is a citizen of a different state than VSP. *See* 28 U.S.C. § 1332(d)(2)(A).

### **TIMELINESS OF REMOVAL**

10. VSP was first served with a copy of the complaint on October 4, 2019.

11. Pursuant to 28 U.S.C. § 1446(b), VSP's Notice of Removal was timely filed within thirty (30) days after service of the complaint and summons, as calculated according to the Federal Rules of Civil Procedure. *See* FED. R. CIV. P. 6(a)(1).

### **NOTICE TO THE PLAINTIFF AND THE CIRCUIT COURT**

12. Pursuant to 28 U.S.C. § 1446(d), upon filing this Notice of Removal in the United States District Court for the Northern District of Illinois, a copy of this Notice of Removal will be filed with the Clerk of Court for the Circuit Court of Cook County, Illinois (Chancery Division). Paper and electronic copies will also be served on the attorneys of record for Plaintiff in the State Court Action.

WHEREFORE, Defendant VSP respectfully requests the above-captioned case be maintained in this Court now that it has been removed from the Circuit Court of Cook County, Illinois (Chancery Division – No. 2019-CH-11261).

Dated: October 31, 2019

Respectfully submitted,

s/ Brian Weinthal

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*Counsel for VSP Retail Development Holding, Inc.*

### **CERTIFICATE OF SERVICE**

On November 1, 2019, the undersigned attorney caused the foregoing Notice of Removal to be filed electronically with the United States District Court for the Northern District of Illinois, which was thereby served upon all parties registered to receive notice via the Court's CM/ECF system. In addition, the undersigned attorney served both paper and electronic copies of the foregoing Notice of Removal via e-mail and via U.S. mail (first class, postage prepaid), upon the following attorneys of record for Plaintiff in the State Court Action that was subject to removal:

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s/ Brian Weinthal

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